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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/029,701 | 12/31/2001 | Byung-Kyu Lee | 030681-352 | 3883 |
| 21839 | 7590 | 12/22/2004 | EXAMINER | |
| BURNS DOANE SWECKER & MATHIS L L P | | | RICKMAN, HOLLY C | |
| POST OFFICE BOX 1404 | | | ART UNIT | |
| ALEXANDRIA, VA 22313-1404 | | | PAPER NUMBER | |

1773

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------|--------------------------------------|---------------------------------------|--|
| Advisory Action | Application No. 10/029,701 | Applicant(s) LEE, BYUNG-KYU | |
| | Examiner Holly Rickman | Art Unit 1773 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.
Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☒ Newly proposed or amended claim(s) 4, 15 and 16 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 4, 15 and 16.

Claim(s) objected to: none.

Claim(s) rejected: 1, 3 and 5-8.

Claim(s) withdrawn from consideration: none.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

ADVISORY ACTION (continued)

Applicant's arguments are not persuasive with respect to the art rejections of claims 1-3 and 5-8 in view of Tang et al. Applicant takes the position that the soft magnetic layer taught by Tang et al. is not the same as the claimed "perpendicular orientation promoting layer." Furthermore, Applicant's argue that Tang's soft magnetic layer is not capable of functioning as a "perpendicular orientation promoting layer."

The Examiner respectfully disagrees. The limitation "perpendicular orientation promoting" is a functional recitation. Thus, it is the Examiner's charge to establish only that the prior art is *capable* of functioning in the claimed capacity and not that it *does* function in the claimed capacity.

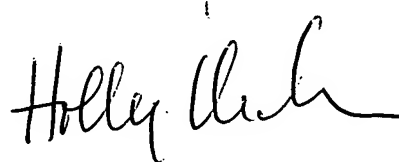
It is the Examiner's position that the soft magnetic layer is capable of functioning in the claimed capacity because it has a microstructure (crystalline or amorphous) that necessarily affects the crystalline growth of all overlying layers. One of ordinary skill in the art would expect that the microstructure structure of the soft magnetic layer would necessarily promote the crystalline growth and orientation of the overlying layers. Thus, the perpendicular orientation of the overlying magnetic layer can be attributed in part to the microstructure of the soft magnetic layer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Holly Rickman whose telephone number is (571) 272-1514. The examiner can normally be reached on Monday-Friday 9:30-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on (571) 272-1535. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Holly Rickman", with a stylized flourish at the end.

Holly Rickman
Primary Examiner
Art Unit 1773

December 13, 2004